

## REMARKS

This amendment is responsive to the Office Action dated January 22, 2010. Claims 1 and 3-11 are pending. The Office Action rejected Claims 1 and 3-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,907,952 to Inoue et al. ("Inoue"). Applicants have amended Claim 1. The amendment to Claim 1 serves to more clearly define the invention and overcome the rejections. No new matter has been added by this amendment. New Claim 11 has also been added, which is directed to the turbocharger of Claim 1, further comprising an insert comprising the peripheral ring and an outer ring. Support for this amendment may, for example, be found in paragraph 21 of the specification which states that the "[t]he variable nozzle device includes a basically ring-shaped insert 11 as an integral member comprising a peripheral ring 13 and an outer ring 15 connected with the peripheral ring by means of leg portions 17." Further support for the claimed insert and outer ring may be found in FIG. 1.

In light of the remarks presented below, Applicants request reconsideration and allowance of all now-pending claims of the present application.

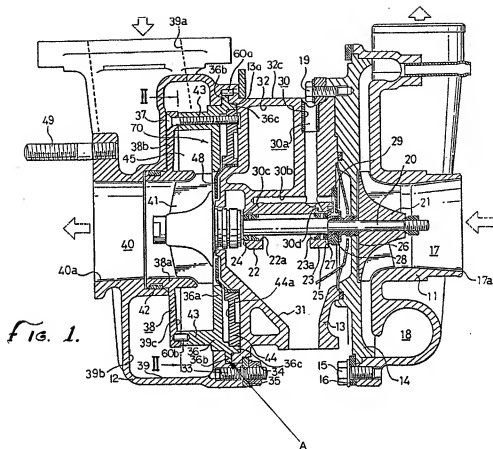
### Telephone Interview

The undersigned would like to express his gratitude for the Examiners' courtesy in conducting a telephone interview on March 11, 2010 to discuss the Inoue reference vis-à-vis the claims that were examined. In the interview, the undersigned proposed a claim amendment which more clearly defines the invention so as to overcome the Inoue reference. The Examiner and his supervisor agreed that the proposed amendment overcomes the Inoue reference. Accordingly, the proposed amendment has been incorporated into the claims, as explained below.

Remarks/Arguments

The invention of the present application relates to a turbocharger comprising a variable nozzle device and an exhaust housing which is mechanically and/or thermally decoupled from the variable nozzle device. In particular, independent Claim 1 recites “an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device,” “wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided.” Claim 1 now further recites that contact between the exhaust housing and the peripheral ring is avoided “at all locations.” Support for this new limitation is found at least in paragraph 29 of the specification and FIG. 6, which respectively describe and show that as a result of the axially extending clearance 57 and the radially extending clearance 61, there is no contact between the exhaust housing 47 and the peripheral ring 13 at all locations. Thus, the present application discloses a turbocharger with no direct contact between exhaust housing 47 and the variable nozzle device (including the insert 11, nozzle ring 23, vane pins 25, vanes 27, vane arms 29, and unison ring 31).

This differs from the disclosure found in Inoue. Inoue teaches a turbocharger with a turbine casing 12, vane holder (base plate) 36, and top plate 38 jointly constituting a turbine housing. Four moveable vanes 45 are fixedly supported on rotatable pins 47 axially inserted through respective holes defined in the vane holder 36. The turbocharger of Inoue may not be said to meet the limitations of “an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device,” “wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided *at all locations*” (emphasis added). In particular, the point labeled “A” in the following diagram appears in each of the illustrated and described embodiments of Inoue.



At least at point A, there will be a transmission of thermal and mechanical loads from the turbine casing 12 to the vane holder 36 due to the vane holder being “sandwiched” between the turbine casing 12 and the central casing 13. Thus, this structural relationship shows that in all embodiments of Inoue there will be at least one location where there is contact, and hence the turbocharger of Inoue fails to meet the limitation of a peripheral ring that is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided at all locations. Accordingly, Applicants respectfully submit that the limitations of currently amended independent Claim 1 are not met by Inoue.

### CONCLUSION

In view of the foregoing amendment and remarks, Applicants respectfully submit that Claims 1 and 3-11 of the present application are now in condition for allowance. It is respectfully requested that a Notice of Allowance for all pending claims be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the sole independent claim has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

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Filed: December 25, 2006  
Amdt. dated March 24, 2010

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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